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HOUSE BILL NO. 825

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws
on February 27, 2002)

(Patron Prior to Substitute—Delegate Nixon)

A BILL to amend and reenact §§ 12.1-17, 17.1-222.1, 24.2-105.2, 29.1-112, 46.2-207 and 60.2-519.2 of the Code of Virginia, to amend the Code of Virginia by adding in Article 1 of Chapter 6 of Title 2.2 a section numbered 2.2-614.1, and to repeal §§ 58.1-13.1 and 58.1-3013 of the Code of Virginia, relating to acceptance of credit cards, checks and other commercially acceptable forms of payment; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 12.1-17, 17.1-222.1, 24.2-105.2, 29.1-112, 46.2-207 and 60.2-519.2 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 1 of Chapter 6 of Title 2.2 a section numbered 2.2-614.1 as follows:

§ 2.2-614.1. Authority to accept revenue by commercially acceptable means; service charge; bad check charge.

A. Subject to § 19.2-353.3, any public body that is responsible for revenue collection, including, but not limited to, taxes, interest, penalties, fees, fines or other charges, may accept payment of any amount due by any commercially acceptable means, including, but not limited to, checks, credit cards, debit cards, and electronic funds transfers.

B. The public body may add to any amount due a sum, not to exceed the amount charged to that public body for acceptance of any payment by a means that incurs a charge to that public body or the amount negotiated and agreed to in a contract with that public body, whichever is less. Any state agency imposing such additional charges shall waive them when the use of these means of payment reduces processing costs and losses due to bad checks or other receivable costs by an amount equal to or greater than the amount of such additional charges.

C. If any check or other means of payment tendered to a public body in the course of its duties is not paid by the financial institution on which it is drawn, because of insufficient funds in the account of the drawer, no account is in the name of the drawer, or the account of the drawer is closed, and the check or other means of payment is returned to the public body unpaid, the amount thereof shall be charged to the person on whose account it was received, and his liability and that of his sureties, shall be as if he had never offered any such payment. A penalty of twenty-five dollars or the amount of any costs, whichever is greater, shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 58.1-12 shall not apply.

§ 12.1-17. Deposits of funds; receipts for payment.

A. All funds received by the Commission in the course of its duties shall be paid promptly to the State Treasurer or deposited promptly in banks designated by the State Treasurer to the credit of the State Treasurer. The Commission may accept payment of any amount due by: (i) check, (ii) credit card, (iii) electronic funds transfer, or (iv) any other means approved by the Commission. The Commission may add to any amount due a sum, not to exceed the amount charged to the Commission, for acceptance of any payment by a means which incurs a charge to the Commission.

B. If any check or other means of payment tendered to the Commission in the course of its duties is not paid by the financial institution on which it is drawn, the person for whom such check or other means of payment was tendered shall remain liable for the payment of the amount due, the same as if such payment had not been tendered. A penalty of twenty-five dollars shall be added to such amount. Such penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 58.1-12 shall not apply. The Any penalties received by the Commission under § 2.2-614.1 this section shall be used to defray the expenses incurred by the Commission in the collection of such payments, and shall be in addition to the regular appropriation made by the General Assembly.

C.B. The Commission shall issue receipts for all currency received for payments in the course of its duties.

§ 17.1-222.1. Collection of fees, etc., by court clerks in lieu of money.

The clerks of the several courts of the Commonwealth may, in lieu of money, collect or secure all fees, and fines and penalties collected for offenses committed against the Commonwealth or against any county, city or town, and for payment of spousal or child support, by check, draft, credit card or order for the payment of money any means provided in § 2.2-614.1. Such clerks shall not by virtue of acceptance of any such check, draft, credit card or order payment be held to be guarantors of the payment thereof, but they shall exercise ordinary care in such acceptance.

§ 24.2-105.2. Acceptance of payments.

60 The Secretary of the State Board may accept payment of charges due for voter lists, copies, fines or
61 fees, by use of credit card or debit card. Any credit or debit card used to pay for any voter list must be
62 in the name of a person or organization authorized to receive such list pursuant to § 24.2-405.

63 § 29.1-112. Payment of license and permit fees.

64 The Director may authorize the acceptance of credit cards *any method of payment authorized by*
65 § 2.2-614.1 in lieu of money for payment of any fees collected by the Department or agents acting on
66 behalf of the Department for any licenses or permits issued under this title or for any merchandise sold
67 by the Department. The Director may add to such payment a service charge for the acceptance of a
68 credit card to defray the fee charged by the issuer of the credit card; however, the service charge shall
69 not exceed the processing fee charged by the card issuer. For the purposes of this section "credit card"
70 means (i) any instrument or device, whether known as a credit card, credit plate, payment device
71 number, or by any other name, issued with or without fee by an issuer for the use of the cardholder in
72 obtaining money, goods, services or anything else of value on credit or (ii) a similar device, whether
73 known as a debit card, or any other name, issued with or without fee by an issuer for the use of the
74 cardholder in obtaining money, goods, services or anything else of value by charging the account of the
75 cardholder with a bank or any other person even though no credit is thereby extended.

76 § 46.2-207. Uncollected checks and electronic payments tendered for license fees or taxes; penalty.

77 If any bank on which an uncertified check or electronic payment tendered to the Department or to
78 any agent acting on behalf of the Department refuses payment on the check or electronic payment due
79 to insufficient funds in the account of the drawer, no account in the name of the drawer, or account of
80 the drawer closed, and the check or electronic payment is returned to the Department or agent unpaid,
81 there shall be a penalty of twenty-five dollars *The penalty set forth in subsection C of § 2.2-614.1*, or
82 ten percent of the amount of the check or electronic payment, whichever is greater, imposed on the
83 person from whom the payment is due the Department. This penalty shall apply to checks or electronic
84 payments tendered for any fee or tax required or authorized to be collected by the Department and shall
85 be in addition to any other penalties imposed by the Motor Vehicle Laws of Virginia, except in a case
86 where there is a specific penalty set forth by statute for the nonpayment or late payment of fees or
87 taxes, in which case ~~this section~~ *subsection C of § 2.2-614.1* shall apply only in the amount it exceeds
88 the specific penalty. All moneys collected by the Commissioner from the penalties imposed under this
89 section *and § 2.2-614.1* shall be paid into the state treasury and set aside as a special fund to be used to
90 meet the expenses of the Department of Motor Vehicles.

91 § 60.2-519.2. Service charge for payment of taxes by certain means.

92 The Commission is authorized to accept payment of taxes by use of a credit card. In addition to any
93 penalties and interest, the Commission shall add to such payment a service charge for the acceptance of
94 such card. Such service charge shall not exceed the percentage charged to the Virginia Employment
95 Commission for the use of such card. *If the Commission accepts a form of payment by a means that*
96 *incurs a charge, the Commission shall add that charge to such payment as described in subsection B of*
97 *§ 2.2-614.1.*

98 **2. That §§ 58.1-13.1 and 58.1-3013 of the Code of Virginia are repealed.**